

05-1106

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RCE

Practitioner's Docket No. SHE-6144 **PATENT**  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**



In re application of: **SHLOMO GABBAY**  
Application No.: **09/973,609** Group No.: **3738**  
Filed: **October 9, 2001** Examiner: **B. Pellegrino**  
For: **IMPLANTATION SYSTEM FOR  
IMPLANTATION OF A HEART VALVE PROSTHESIS**

**Mail Stop RCE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

**REQUEST FOR CONTINUED EXAMINATION (RCE)**  
**(37 C.F.R. § 1.114)**

1. Applicant hereby requests continued examination, in accordance with 37 C.F.R. § 1.114, for the above-identified application.

**WARNING:** 35 U.S.C. 132(b) and § 1.114 provide for the continued examination of an application and not examination of a continuing application. Accordingly, the Office will not permit an applicant to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

**WARNING:** A continued examination request cannot be made if at least one office action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 161 has not been mailed. The provisions of 37 CFR 1.114 also do not apply (1) to a provisional application, an application for a utility or plant patent filed under 35 U.S.C. 111(a); (2) an international application filed under 35 U.S.C. 363 before June 8, 1995; (3) a patent under reexamination or (4) an application for a design patent. 37 CFR 1.114(d).

**NOTE:** There is no limit to the number of times the fee for continued examination may be submitted. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

**NOTE:** Unlike a continuation application, a continued examination request can utilize the mailing procedure of 37 CFR 1.8. See 37 CFR § 1.8(a)(2)(i)(A).

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**CERTIFICATION UNDER 37 CFR §§ 1.8(a) and 1.10\***  
**Express Mail certification is optional.)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as "Express Mail Post Office Addressed to: **Commissioner for Patents, P.O. Box, Alexandria, VA 22313-1450**

Express Mailing Label No.: **EQ477632319US - Mandatory**

Date of Deposit **May 10, 2006**

Typed Name: **Lisa D. Jones**

Signature

\*Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

**TIME REQUEST IS BEING MADE**

2. This request is being submitted (check appropriate item(s) below):

- i. ☐ Prior to abandonment of the application
- ii. ☐ Payment of the issue fee
  - ☐ Prior to payment of issue fee
  - ☐ Issue fee has been paid but a petition under § 1.313 has been granted
- iii. ☒ Prior to a decision on appeal to the Board of Patent Appeals & Interferences that this Request for Continued Examination is being filed.

**NOTE:** *If such a notice is not sent to the Board then may refuse to vacate a decision rendered after the filing of the RCE but before recognition by the Office of the RCE request under § 1.114.*

- iv. ☐ Appeal to the U.S. Court of Appeals of the Federal Circuit under 35 U.S.C. 145 or ☐ Commencement of a civil action under 35 U.S.C. 146.
  - ☐ Prior to the filing of such appeal or commencement of civil action.
  - ☐ Such appeal or commencement of civil action has been terminated.

**ENCLOSURES**

3. Enclosed herewith is/are:

**WARNING:** *If reply to a final or non-final Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111. 37 C.F.R. § 1.114(b).*

- ☐ An information disclosure (37 C.F.R. § 1.98)
- ☐ Form PTO-1449 (PTO/SB/08A and 08B)
- ☒ An amendment (**copy of unentered amendment dated May 10, 2006**)
- ☐ New arguments
- ☐ New evidence in support of patentability
- ☐ Other:

**FEE REQUEST (37 C.F.R. §1.17(e))**

4. This application is on behalf of:

- ☒ Small entity (and status is still as small entity) . . . . . \$395.00
- ☐ Other than a small entity . . . . . \$790.00

Continued Prosecution Request Fee **\$395.00**

## FEE FOR CLAIMS

**NOTE:** "The fee for continued examination under § 1.114 (§1.17(e)) does not include additional claims fee (cf. 1.53 (d)(3)(ii))." See Notice of March 10, 2000, 65 Fed Reg 14865, at 148868.

37 CFR 1.53(d)(3): "The filing fee for a continued prosecution application filed under this paragraph is:

(i) The basic filing fee as set forth in § 1.16; and

Any additional § 1.16 fee due based on the number of claims remaining in the application after entry of any amendment accompanying the request for an application under this paragraph and entry of any amendments under § 1.116 unentered in the prior application which applicant has requested to be entered in the continued prosecution application."

5. The fee for claims (37 C.F.R. § 1.16(b)-(d)) has been calculated as shown below:

FEES FOR CLAIMS									
FOR	(1) "CLAIMS REMAINING AFTER AMENDMENT		(2) "HIGHEST NUMBER PREVIOUSLY PAID FOR	(3) PRESENT EXTRA	(4) SMALL ENTITY		(5) LARGE ENTITY		(6) ADDITIONAL FEES
					RATE	FEE	RATE	FEE	
TOTAL CLAIMS	20	MINUS	20	1	X \$ 25.00	0.00	X \$ 50.00		
INDEP. CLAIMS	02	MINUS	03	0	X \$100.00	0.00	X \$200.00		
[ ] First Presentation of a Multiple Dependent Claim					\$180.00	0.00	\$360.00		
<b>SUBTOTAL OF ADDITIONAL FEES</b>						25.00			0.00
<p>* If the entry in Column 1 is less than entry in Column 2, write "0" in Column 3.  ** If the "Highest No. Previously Paid For" <i>in this space</i> is less than 20, enter "20".  *** If the "Highest No. Previously Paid For" <i>in this space</i> is less than 3, enter "3".  The "Highest No. Previously Paid For" (<i>Total / Independent</i>) is the highest number found in Col. 1 of a prior amendment / the number of claims originally filed.  <b>WARNING</b> "After final rejection or action (§1.113) amendments may be made canceling claims or complying with any requirement of form which has been made." 37 C.F.R. § 1.116(a)(emphasis added).</p>									
Applicant petitions for an extension of time under 37 C.F.R. §1.136 (FEES: 37 C.F.R. §1.17 (1) – (4) for the total number of months checked below:									
EXTENSION	1ST MONTH		2ND MONTH		3RD MONTH		4TH MONTH		
Large Entity	<input type="checkbox"/>	\$120.00	<input type="checkbox"/>	\$450.00	<input type="checkbox"/>	\$1,020.00	<input type="checkbox"/>	\$1,590.00	
Small Entity	<input type="checkbox"/>	60.00	<input type="checkbox"/>	225.00	<input type="checkbox"/>	510.00	<input type="checkbox"/>	795.00	\$0.00
[ ] An extension for ____ month(s) has already been secured and the fee paid therefore of \$ ____ is deducted from the total fee due for the total month(s) of extension now requested. [XX] Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.									
<b>TOTAL ADDITIONAL FEE</b>								<b>\$25.00</b>	

## TOTAL FEE(S) DUE

**WARNING:** The fee for continued examination under § 1.114 may not be deferred. 37 C.F.R. § 1.53(f).

7. The total fee(s) due is/are:

Continued Prosecution Fee (§1.17(e))	\$	<u><b>395.00</b></u>
Fee(s) for additional claims (if any) (§ 1.16(b)-(d))	\$	<u><b>0.00</b></u>
Extension of time fee (if any) (§ 1.17(a)(1)-(4))	\$	<u><b>0.00</b></u>
<b>Total Fee(s) Due</b>	<b>\$</b>	<u><b>395.00</b></u>

### PAYMENT OF FEE(S) DUE

8. Please pay the fee(s) for this continued examination application as follows:

- ☒ Attached is a ☒ check ☐ money order in the amount of **\$395.00**  
☒ Authorization is hereby made to charge the amount of \$\_\_\_\_\_  
☒ to Deposit Account No. 20-0090.  
☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** Credit card information should **not** be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

**A duplicate of this paper is attached.**

### FEE DEFICIENCY

- ☒ If any additional extension and/or fee is required, charge Deposit Account No. 20-0090.

### AND/OR

- ☒ If any additional fee for claims is required, charge Deposit Account No. 20-0090.

### INVENTORSHIP

**NOTE:** Any change of inventors must be via the procedure set forth in 37 CFR § 1.48. See Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

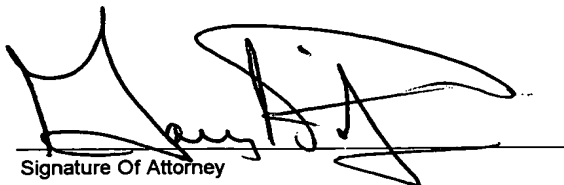
9. This application as amended names as inventors:

- ☒ the same inventors as previously designated for the claims.  
☐ fewer than the inventors previously designated and a statement accompanies this request for the deletion of the name or names of the person or persons who are not inventors of the invention now being claimed.  
☐ a person not named previously as an inventor and a petition under 37 C.F.R. § 1.48 is/has separately: ☐ being filed ☐ been filed

Date: May 10, 2006

Customer No.: 26,294

Reg. No.: 39,334



Signature Of Attorney

**GARY J. PITZER**

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